

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHAEL EVAN KEELING,  
a/k/a VINCENT OWENS,

Petitioner,

-against-

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 6/8/10

04 Civ. 2206 (CM)

ROBERT SHANNON, Superintendent,  
Frackville Pennsylvania Correctional Facility,

Respondent.

x

MEMORANDUM ORDER ACCEPTING THE REPORT OF THE HONORABLE  
GEORGE A. YANTHIS, ADOPTING THE REPORT AS THE OPINION OF THE  
COURT (WITH ONE AMENDATION), AND DISMISSING THE PETITION

McMahon, J.:

The Court has reviewed the Report and Recommendation of The Hon. George A. Yanthis, U.S.M.J., dated March 2, 2007, in which the learned Magistrate Judge recommends that the instant petition for a writ of habeas corpus be dismissed. I have also reviewed the objections filed by petitioner on May 27, 2010. Nothing in those objections causes me to question the conclusions reached by Judge Yanthis.

The only amendment I would make to his thorough and thoughtful report is to add a sentence just before the last sentence in the first full paragraph on page 14. The added sentence should read: "Furthermore, because the People have shown that more than 37 days of speedy trial time were properly excluded from the 120 day calculus, due to the pendency of pre-trial motions (which, while pending, toll the speedy trial clock, see *New York v. Hill*, 528 U.S. 110, 112 (2000)), there was no IAD violation."

With that addition, the court adopts the Report as its opinion and dismisses the petition with prejudice.

As Petitioner has made no substantial showing of the denial of a constitutional right, there is no question of substance for appellate review. Therefore, no certificate of appealability shall issue. 28 U.S.C. § 2253; see *United States v. Perez*, 129 F. 3d 255, 259-60 (2d Cir. 1997); *Lozada v. United States*, 107 F. 3d 1011 (2d Cir. 1997); *Rodriguez v. Scully*, 905 F. 2d 24 (2d Cir. 1990).

I certify, pursuant to 28 U.S.C. § 1915(a), that an appeal from this order would not be taken in good faith. *Coppedge v. United States*, 369 U.S. 438 (1962).

The Clerk of the Court is directed to close this case.

Dated: June 8, 2010



U.S.D.J.

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The Hon. George A. Yantpis